

Freedom of Information in the USA: Part 1

Overview

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There are probably no more important reforms to government than the ones that came with the passing of the Federal Freedom of Information ("FOI") Act. The law recognized in no uncertain terms that if government is to be of the people, by the people and for the people, the decisions and actions of the government must be open for review by the people.

The states, for the most part, followed the federal government in adopting open records laws.

Unfortunately, state FOI laws have proven to be almost uniformly weak and easy to undermine. The weakness and haphazard construction of the state laws has resulted in an information gap that significantly effects the citizenry's ability to examine even the most fundamental actions of government.

In the course of numerous investigations, [Better Government Association](#) investigators have been refused in our requests to review state contracts and performance measures, denied everything from documentation of ambulance response times to the documents reviewed when making budgeting decisions, and ignored by officials in nearly every major office at one time or another. Our experience told us that the FOI laws simply do not work very well in Illinois.

As a result of our hands-on experience with Illinois' lack of responsiveness, the BGA decided to find out where we stood in relationship to other states. We found that no one had completed any sort of national analysis of FOI laws, and that Illinois' relative strengths and weaknesses could not be measured without creating a new instrument to study the problem and without an analysis of each state's statutory provisions for FOI.

Survey includes IRE members

In addition to a thorough analysis of the laws, we worked with Investigative Reporters and Reporters, Inc. (IRE) to survey 191 investigative journalists across the US. We asked these journalists to rank their satisfaction with the state FOI laws in the state in which they practice their craft. Our findings were entirely consistent with our analysis of the laws. The BGA/IRE survey found that:

- Journalists across the country believe that open records is important to doing their job by a ratio of nearly 31:1
- Journalists across the country believe that public officials abuse their discretion when responding to FOI requests by ratio of 11:1.
- Journalists across the country do not feel confident that legitimate FOI requests will be honored by ratio of 11:1.

Our survey also found that journalists believe that the cost of litigation is a deterrent to fighting improper FOI refusals (8:1), that public officials would not be held accountable for violations (6:1), and that important information goes unpublished as a result of weak state level FOI laws (2:1).

It is time to reform Freedom of Information Laws in the US.

The FOI Report Card

To study the relative strengths of the FOI laws, the BGA created a "gold standard" against which the laws of each state could be objectively and accurately measured. This gold standard was then developed into a simple, understandable report card, grading the each state's performance on a four-point (4.0) scale.

The criteria that the BGA uses are based on the existing "best practices" in states across the country. In other words, we know that each criterion is obtainable because it is already law in at least one state. The criteria are derived from state statutes or the law as it is written, because it was too burdensome to measure how the law is actually implemented in each state or how state courts have reshaped the FOI laws in each state.

The FOI Report Card measures the five criteria on a scale from zero to five, with zero being the lowest and five being the highest possible scores. The criteria were broken into two categories - three procedural criteria and two penalty criteria.

The procedural criteria measure (1) the amount of time a public agency or department has to respond to a citizen's request for a public document; (2) the process a citizen must go through to appeal the decision of an agency to deny the request for the public record; and (3) whether an appeal is expedited when it reaches the court system.

The penalty criteria weigh (1) whether the complaining party, upon receiving a favorable judgment in court, is awarded attorney fees and costs; and (2) whether the agency that has wrongfully withheld a record is subject to any civil or criminal punishment.

Analysis/Ranking

The grading scale the BGA chose to use is based on the standard "four-point" university grading scale. Grades are awarded based on the number of points that a state earns in any given category. Those points are multiplied by .08 to put them on a four point scale. The final "GPA" is derived by adding the weighted average grades and dividing by the total possible credits (16).

Sample Report Card

	Points	GPA	Grade	Credit Value
Response Time	5pts	4.0	A	4
Appeals	3pts	2.4	D	2
Expediency	2 pts	1.6	F	2
Fees and Costs	1pt	0.8	F	4
Penalties	0pts	0.0	F	4
Total	11pts			
State Grade Point Average: 1.7 Final Grade: C-				

Measuring the Grade Point Average

A = 4.00	B+ = 3.33	B- = 2.7	C = 2.00	D+ = 1.33	D- = .7
A- = 3.7	B = 3.00	C+ = 2.33	C- = 1.7	D = 1.00	F = .69-0

How to use this analysis

The BGA believes that this analysis will best serve the public and the media as a starting point rather than an end. It shows much of the depth and breadth of the problem and where the laws are weakest. We even propose a "gold standard" by which we every state can improve the strength of their FOI laws.

The scores and the data themselves are most useful in assessing the relative performance each state, breaking them into rough quintiles rather than focusing on the specific scores.

This analysis does not measure culture, enforcement or the various myriad exceptions in each state. Each of these factors can have an enormous impact on the actual practice of the laws but is unmeasurable without a much larger, prohibitively expensive study.

FOI laws in the USA: Part II

Detailed Methodology & Analysis

Purpose Statement

Each of the fifty states as well as the District of Columbia and the federal government have passed an open records or freedom of information act giving citizens access to public records. The opening provision of each of these acts provides that an open government is a critical element in achieving a successful democracy and that it is only when the public is given free reign over government documents that the public can effectively oversee the activities of its elected leaders. Thus, each state and the federal government has made it its policy to promote a more open and better government by giving the public wide access to public records. The Better Government Association (BGA) has undertaken a comprehensive study analyzing the open records statutes of each of the fifty states, as well as the District of Columbia, in order to examine the effectiveness of each statute in promoting this policy.

The Analysis

The BGA, in conducting this study, has only analyzed the text of each statute. There has been no analysis of case law or Attorney General Opinions. By assessing only the statutory language, very little interpretation of the law had to be conducted by BGA researchers in order to complete this study. This allowed the BGA to keep the analysis as objective as possible. In addition, as the primary source of law, citizens seeking to invoke their rights to examine public records will look to the statute for guidance, not case law or Attorney General Opinions.

Methodology

The states were compared against each other. Each state was assessed against five criteria. The five criteria were broken into two categories - three procedural criteria and two penalty criteria. In each criterion, a state was given a grade, zero through five, according to a sliding scale. The points were then converted to an academic "four-point" scale (by multiplying the points awarded by .80). After each procedural criterion was examined, the grades were totaled for each state. Each state was then ranked according to its point total in the procedural criteria. Similarly, after each penalty criterion was examined, the grades were totaled and the states' penalty criteria point totals were compared. The numbers from the two categories of criteria were then added and the states were given an overall ranking according to their grade point average, which reflects the weighting of each category, and the total points in all five criteria, which differentiates quality between states with equivalent GPA's. The total possible points were 25.

The Criteria

The BGA used five criteria to assess each state. The criteria were chosen as an effort to conduct the most objective analysis of the law in each state. Each criteria was graded from zero to five, with five being the highest score. The five criteria are divided into two categories. The first category is comprised

of the first three criteria and is referred as the procedural criteria. The second category, composed of the last two criteria, is referred to as the penalty criteria. The procedural criteria are designed to assess the procedural guidelines in each state for obtaining public records, while the penalty criteria examines the what punishment, if any, is levied against an agency that wrongfully denies access to a public record.

The procedural criteria are as follows: (1) The amount of time a public agency or department has to respond to a citizen's request for a public document; (2) the process a citizen must go through to appeal the decision of an agency to deny the request for the public record; and (3) whether an

appeal is expedited

when it reaches the court system. The penalty criteria weigh: (1) whether the complaining party, upon receiving a favorable judgment in court, is awarded attorney fees and costs; and (2) whether the agency that has wrongfully withheld a record is subject to any civil or criminal punishment.

In assessing the statutes, the BGA chose not to use exemptions from disclosure as a factor in its analysis. Most state statutes, as well as the federal statute, contain a provision that specifically defines what records are not subject to disclosure under the act. The BGA chose not to use exemptions in weighing the strengths and weaknesses of each state's statute because of the relative impossibility of counting each exemption. Furthermore, without a close analysis of how the exemption is interpreted judicially, it is impossible to tell how broad or narrow the exemption reaches. Accordingly, surveying statutes based on exemptions would be very difficult because a state with few exemptions might exclude more records than a state with many exemptions if the first state interprets its exemptions very broadly and while the second state interprets its exemptions very narrowly.

To determine the state grade point average, multiply the number of grade points by the number of credits. Then, divide the number of total grade points by the total number of credits. The quotient is the grade point average.

The Procedural Criteria

The first three criteria that the BGA studied in assessing the strength of each state's open records act are procedural. The three criteria involve the process the requesting party must undergo to gain access to public records. The BGA's concern with these procedural requirements is that a lengthy and burdensome process is likely to discourage citizens from making requests and seeking enforcement of the statute, which will result in less disclosure of public information. Such a result would frustrate the policy of creating a better democracy through a more open government. The procedural criteria are as follows:

Response Time

Response time is the period of time that an agency has to make an initial response to a request for a public record. A major area of concern is requests for time sensitive documents. The more time an agency has to respond to a citizen's request, the less effective the statute becomes. For instance, statutes that provide for very long response times, or do not provide a stated response time at all, do not create any statutory assurances for a requestor, such as a journalist, who is seeking a time sensitive document. Statutes in these states may allow an agency to stall in handing over the requested materials so that they are no longer useful, or the requestor simply gives up on the request. Either result frustrates the purposes of the open records act. Thus, state statutes received more points for quicker response times. Note: The BGA only examined the time an agency has to make an initial response to a request for documents. In many states, an agency can receive an extension of time to consider a request. The BGA did not factor in possible time extensions.

A state received no points if its statute did not provide for a response time. In these states agencies have no legislative mandate on response and this lack of guidance may lead to abuse. A statute must explicitly define an agency's responsibility, making response requirements clear and unambiguous.

States received one point if its statute simply provided that response to a request must be made within a reasonable amount of time, or language similar to that effect. This ambiguous language may lead to excessive delays in processing a request. The lack of an explicitly defined response time is of concern to the BGA. Receiving two points are states that have passed statutes requiring a response between 24 and 30 days. These states explicitly define in their statute a

response time, so that the requesting party is assured recognition of the request during a specified time period. However, 24 to 30 days is too broad of a response time. A state received three points if its statute required a response between 16 and 24 days. Four points were awarded if a state's statute required a response between eight to 15 days. Finally, a state received five points if its statute required a response between one and seven days.

Appeal

The next procedural criteria used by the BGA to weigh the strength of each state's open records act was the appeals process a citizen can go through after being denied access to a record that is covered by the statute. Citizens may often have their requests denied and the only way they can gain access to records is by appealing the agency's denial. If citizens are able to appeal in a cost and time efficient manner, in the forum of their choice, citizens are more likely to challenge an agency's denial. The BGA's method of grading this criterion is based on three elements: choice, cost and time. A petitioner should be able to choose the body that hears the appeal. The appeal process should also provide for administrative remedies to control the costs and time of appealing.

States with statutes that do not provide for an appeals process do not receive any points. These states fail to inform citizens that the denial may be reviewed, and maybe reversed, by a higher authority. The law must explicitly explain the appeal process in order to fully inform citizens of their rights. Only allowing a petitioner to appeal a denial to court receive one point. Under these statutes, citizens are not able to choose the forum of their appeal. In addition, these states do not provide for any administrative remedies that will reduce the cost of an appeal. Appealing directly to a court will assuredly be the most expensive and take the most amount of time. Citizens are less likely to challenge a denial if appealing means several years of litigation costing thousands of dollars.

Two points were awarded to states that require petitioners to first appeal to the director of the agency that denied them access, then to an ombudsman and only then to court. By requiring a petitioner to exhaust both administrative remedies before allowing access to the court system, these states provide the petitioner no choice of forum. Furthermore, appealing to both bodies may be burdensome on the petitioner. However, these states do provide for administrative remedies that may reduce the cost of the appeal if a favorable ruling can be achieved before going to court. By appealing first to the agency head and then to an ombudsman, there is a chance of getting a favorable decision in a cost and time efficient manner.

Requiring the petitioner to appeal to a legislatively designated entity, either the head of the agency or an ombudsman, then to court scored states three points. These states still fail to provide the petitioner with any choice of the forum. However, these states only require the petitioner to exhaust one round of administrative remedies before entering the court system, which is less burdensome. Furthermore, by seeking some administrative remedy, there is the potential for a favorable ruling on the appeal before getting to court.

States requiring the petitioner to appeal first to the entity of their choice, either the head of the agency or an ombudsman, then to court received four points. These states still require the petitioner to exhaust one phase of administrative remedies before going to court however citizens have a choice of which remedy to pursue. Furthermore, the option of administrative remedies provides the opportunity for citizens to have their request reviewed in a cost and time efficient manner. Finally, the states allowing citizens to pursue the channel of appeal of their choice received five points. These states pass each prong of the BGA's analysis. First, citizens have total control of which forum to have their appeal heard. Furthermore, these states provide for administrative remedies, which may result in a favorable ruling in the least expensive and time-consuming manner.

Expediency

Expediency means to give a case priority on a court's docket in front of other matters because of time concerns. The BGA examined each state statute to determine if a petitioner's appeal, in a court of law, would be expedited to the front of the docket so that it is heard immediately. The BGA only looked at whether an appeal is expedited in court and did not consider expediency requirements for administrative proceedings.

Expediency is a procedural feature that allows petitioners to have their grievances heard in a timely manner. Without expediency on a congested court docket, it may be months or years before an appeal is heard and resolved. As a result, the enormous costs of a lengthy court battle may prevent a citizen from challenging a denial. Furthermore, lengthy court battles will render time sensitive documents useless. Without expediency, litigation may serve as tool to stall the production of records until the records are no longer of use, or until the citizen simply gives up on the request.

States that do not provide for expediency in their public record statute received no points. These states do not provide any mandate to avoid the inherent problems that are associated with lengthy and costly litigation. Requiring an appeal to be expedited and heard 'as soon as practicable' scored states one point. While these states address the issue of expediency, and seemingly recognize its importance, they provide no meaningful mandate. Because these states leave the issue of expediency to the judge's discretion, an appeal still may not be heard for months.

States requiring a case to be heard within 21 to 30 days after filing received three points. These states explicitly mandated a time limit and provide the petitioner with assurance of a speedy appeal. States received four points if they required a case to be heard within 11-20 days after filing. Finally, five points were awarded to states that require a case to be heard within one to 10 days.

Penalties

In the penalty category, the two criteria the BGA used to weigh the strength of each state's public records act focus on the penalties that are levied against an agency that has been found by a court of law to have violated the statute. The two penalty criteria are: (1) whether the court is required to award attorney's fees and court costs to the prevailing requestor; and (2) what sanctions, if any, the agency may be subject to for failing to comply with the law. These criteria are designed to assess the enforceability of a public records act. Penalties and sanctions provide incentives for agencies to comply with the law as well as a deterrent for violations. Without penalties, the procedural provisions mean very little.

Attorney's Fees & Costs

The first penalty criteria the BGA used was whether petitioners were entitled to attorney's fees and court costs in the event they prevail in their action. Allowing for such an award serves two purposes. First, it assures petitioners that their expenses will be covered in the event they are successful in their appeal, encouraging people to challenge an agency's denial. Second, awarding fees and costs to the prevailing petitioner will provide a deterrent to agencies and promote compliance with the law.

The BGA's grading scale for fees and costs contains phrases that warrant explanation. The first is the difference between 'may' and 'shall.' 'May' means that fees and costs are to be awarded at the judge's discretion. 'Shall' means that fees and costs must be awarded to the prevailing petitioner. A statute that states fees and costs 'shall' be awarded will be stronger than a statute that provides fees and costs 'may' be awarded. The second is the difference between 'prevail'

and 'substantially prevail.' 'Prevail' refers to a situation where the petitioner wins on all points, and is given access to all the records requested.

'Substantially prevail' refers to a situation where the petitioner wins on only some points, and loses on other points and the petitioner is only given access to some of the requested records. States that award fees and costs to petitioners that only substantially prevail will be stronger than those that require the petitioner to completely prevail in order to get fees and costs.

State statutes that do not provide that a prevailing petitioner could collect fees and costs received no points. These states provide little incentive for an agency to comply with the law. Furthermore, the citizens denied access to a record are less likely to appeal that denial to a court if they know that they will have to shoulder the burden of paying for the litigation.

Allowing recovery of fees and costs in the event the agency acted in bad faith in denying the record scored states one point. Bad faith is an extremely high burden of proof, and will only be discernable in the most extreme circumstances. Thus, for a majority of cases, fees and costs will not be available to the petitioner if this standard is applied.

States allowing an award of attorney fees and costs at the judge's discretion when the petitioner prevails received two points. These states provide no assurance that the fees will be awarded, however they leave the option open. Furthermore, these states require the petitioner to win on all points before a judge will even consider awarding fees and costs. States receiving three points also leave awarding fees and costs to the discretion of the judge however, the petitioner must only substantially prevail before a judge may consider the awarding attorney fees and costs.

Four points were awarded to states that require an award of fees and costs to a prevailing petitioner. These states assure petitioners from the outset that they will have their expenses covered in the event that they win. Parties in these states are more likely to challenge a denial if they know their costs will be covered. However, petitioners must win on all points before they can be granted the award. Finally, states requiring an award to petitioners who only substantially prevail received five points because they provide the most protection to petitioners from the outset. Parties who have been denied access to records in these states are most likely to appeal because they know that their costs will be covered in the event they recover any documents.

Sanctions

The final criterion the BGA examined in assessing the strength of each state's open record act was sanctions. The BGA looked to see whether there were provisions in the statutes that levied penalties against an agency that was found by a court to be in violation of the statute. Without a sanctions provision, a public records statute means very little. It is only when an agency is punished for breaking the law that the law will be complied with.

States that do not specifically punish an agency for non-compliance with the statute received no points. These states lack a serious commitment to the policy underlying an open records act. One point was awarded to states with statutes that provide for either criminal or civil sanctions in the event there is a violation of the law. These states provide some incentive for compliance. The BGA gave two points for statutes that provided for both criminal and civil sanctions. These states exhibit a heightened commitment to enforcing their laws. Receiving three points are states that provide for either criminal or civil sanctions and increase those sanctions for multiple offenses. These states recognize the problems with continued non-compliance. States with statutes that provide for both criminal and civil sanctions and increase those sanctions for multiple offenses received four points. Finally, states that allowed for termination of an employee who violates the statute received five points. These states provide for the individual employee who has violated the statute to be held directly responsible for his or her wrongful conduct. While fines may be paid

out of the agency budget, this provision mandates direct accountability and is most likely to result in compliance.

The Model Open Records Act

The BGA has read all 51 statutes that have been graded in this study. The five criteria and grading scale that has been used to rank the states have been derived directly from those 51 statutes. Among all 51 statutes, the BGA found provisions it feels would best promote the policy of requiring open government records. However, the BGA was unable to find a statute that exhibited all five of these provisions. In this study, the highest grade that was given out was a "B", which was earned by Nebraska.

The following is an example of an "A" statute:

Response Time:

An agency that receives in writing a request to examine any public records shall respond to such a request within seven working days. The response shall either communicate that access to the record will be granted or that access is denied.

Appeals:

Upon any denial of access to a government record, the requestor may appeal that denial to any of the following: the district court of competent jurisdiction, an open records commission, the Attorney General or the head of agency that has denied access.

Expediency:

A matter on appeal to a district court from a denial of access to a record shall be expedited on the court's docket and heard within seven days.

Attorney Fees & Costs

A petitioner who prevails or substantially prevails in a court of law against an agency that has denied access to an open record shall be awarded the costs of litigation and attorney fees.

Sanctions

Any person who is found in a court of law to have violated the statute may be subject to: A civil fine of \$1,000 for the first offense, increasing with each subsequent offense; and shall be guilty of a misdemeanor punishable by a fine or 90 days in jail or both, and may be subject to termination.

Analysis conducted by the Better Government Association

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FOIA Study grading scale

1. Initial Response Time

0 points: There is no statutory provision for response time

1 point: 'Reasonable Time'

2 points: 24-30 Days

3 points: 16-23 Days

4 points: 8-15 Days

5 points: 1-7

2. Appeals Process

0 points: There is no statutory provision for appeal process

1 point: Petitioner may appeal directly to district court

2 points: Petitioner must appeal to the head of the agency, then petitioner must appeal ombudsman and then petitioner may appeal to the district court
3 points: Petitioner must appeal to a designated entity as provided by statute, either the head of the agency or an ombudsman, then petitioner may appeal to the district court
4 points: Petitioner must appeal first to entity of their choice, either the head of the agency or an ombudsman, then the petitioner may appeal to the district court
5 points: Petitioner may appeal to the head of the agency and/or an ombudsman or the district court

3. Expediency in Court

0 points: There is no statutory provision for expediency
1 point: The petitioner must make a motion showing special circumstances for the appeal to be expedited
2 points: "As soon as practicable"
3 points: The appeal must be expedited and heard within 21-30 days
4 points: The appeal must be expedited and heard within 11-20 days
5 points: The appeal must be expedited and heard within 1-10 days

4. Attorney's Fees and Costs

0 points: There is no statutory provision for attorney's fees and costs
1 point: Attorney's fees and costs will only be awarded if the denial was arbitrary and capricious
2 points: May be awarded if the petitioner prevails, but it is at the court's discretion
3 points: May be awarded if the petitioner prevails or substantially prevails, but it is at the court's discretion
4 points: Shall be awarded if the petitioner prevails
5 points: Shall be awarded if the petitioner prevails or substantially prevails

5. Penalties

0 points: There is no statutory provision for penalties
1 point: A violator is subject to either criminal or civil penalties, but not both
2 points: A violator may be subject to both criminal or civil penalties
3 points: A violator is subject to either criminal or civil penalties, and those penalties increase with multiple violations
4 points: A violator may be subject to both criminal and civil penalties, and those penalties increase with multiple violations
5 points: A statute includes a variation of penalties which includes possible termination of an employee that violates the statute

Results

Category	GPA	Total Points	Overall Grade	Rank
Nebraska	3.30	20	B	1
New Jersey	3.10	19	B	2
Utah	2.90	17	B-	3
Arkansas	2.80	19	B-	4
Virginia	2.80	17	B-	5
Louisiana	2.70	15	B-	6
Kentucky	2.50	16	C+	7
Washington	2.50	15	C+	8
West Virginia	2.50	14	C+	9
Vermont	2.30	15	C	10
Georgia	2.30	14	C	11
Oregon	2.30	14	C	11
Indiana	2.30	13	C	13
Michigan	2.30	13	C	13
Rhode Island	2.20	13	C	13
South Carolina	2.10	11	C	16
Conneticut	2.00	13	C	17
Texas	2.00	12	C	18
Florida	1.90	13	C-	19
Wisconsin	1.90	12	C-	20
California	1.90	11	C-	21

District of Columbia	1.90	11	C-	21
Iowa	1.90	10	C-	23
New Mexico	1.90	10	C-	23
Idaho	1.80	11	C-	25
Illinois	1.70	11	C-	26
Colorado	1.70	10	C-	27
Hawaii	1.50	11	D+	28
Maine	1.50	9	D+	29
Maryland	1.50	9	D+	29
Mississippi	1.50	9	D+	29
New Hampshire	1.50	9	D+	29
New York	1.50	9	D+	29
Kansas	1.50	8	D+	34
Massachusetts	1.30	9	D+	35
Nevada	1.30	8	D+	36
Oklahoma	1.20	6	D	37
Delaware	1.10	8	D	38
Norh Dakota	1.10	8	D	38
Minnesota	1.10	7	D	40
Ohio	1.10	6	D	41
Missouri	1.00	5	D	42
North Carolina	0.90	6	D-	43
Tennessee	0.60	4	F	44
Montana	0.30	3	F	45
Arizona	0.30	2	F	46

Wyoming	0.30	2	F	46
Alaska	0.10	1	F	48
Pennsylvania	0.10	1	F	48
Alabama	0.00	0	F	50
South Dakota	0.00	0	F	50

State/Credit	4		2		2		4		4			X/16		--		
Category	Reponse Time		Appeals		Expediency		Fees & Costs		Penalties		Total Credits	GPA	Total Points	Overall Grade	Rank	If Then A-C+
Alabama	0	0	0	0	0	0	0	0	0	0	0	0.00	0	F	50	
Alaska	0	0	1	0.8	0	0	0	0	0	0	1.6	0.10	1	F	47	
Arizona	0	0	1	0.8	0	0	1	0.8	0	0	4.8	0.30	2	F	46	
Arkansas	5	4	5	4	5	4	3	2.4	1	0.8	44.8	2.80	19	B-	5	B-
California	4	3.2	1	0.8	2	1.6	4	3.2	0	0	30.4	1.90	11	C-	22	
Colorado	5	4	1	0.8	2	1.6	1	0.8	1	0.8	27.2	1.70	10	C-	26	
Conneticut	5	4	4	3.2	2	1.6	0	0	2	1.6	32	2.00	13	C	19	
Delaware	1	0.8	5	4	0	0	2	1.6	0	0	17.6	1.10	8	D	39	
District of Columbia	4	3.2	3	2.4	0	0	3	2.4	1	0.8	30.4	1.90	11	C-	25	
Florida	0	0	5	4	2	1.6	4	3.2	2	1.6	30.4	1.90	13	C-	16	
Georgia	5	4	5	4	0	0	3	2.4	1	0.8	36.8	2.30	14	C	14	
Hawaii	0	0	5	4	2	1.6	4	3.2	0	0	24	1.50	11	D+	12	
Idaho	5	4	1	0.8	3	2.4	1	0.8	1	0.8	28.8	1.80	11	C-	11	
Illinois	5	4	3	2.4	2	1.6	1	0.8	0	0	27.2	1.70	11	C-	20	
Indiana	5	4	1	0.8	2	1.6	5	4	0	0	36.8	2.30	13	C	31	
Iowa	0	0	1	0.8	0	0	4	3.2	5	4	30.4	1.90	10	C-	23	
Kansas	5	4	1	0.8	0	0	1	0.8	1	0.8	24	1.50	8	D+	28	
Kentucky	5	4	5	4	2	1.6	3	2.4	1	0.8	40	2.50	16	C+	10	C+
Louisiana	5	4	1	0.8	2	1.6	4	3.2	3	2.4	43.2	2.70	15	B-	4	B-
Maine	5	4	1	0.8	2	1.6	0	0	1	0.8	24	1.50	9	D+	29	
Maryland	2	1.6	1	0.8	2	1.6	3	2.4	1	0.8	24	1.50	9	D+	12	
Massachusetts	4	3.2	5	4	0	0	0	0	0	0	20.8	1.30	9	D+	34	
Michigan	5	4	1	0.8	2	1.6	4	3.2	1	0.8	36.8	2.30	13	C	8	
Minnesota	1	0.8	1	0.8	2	1.6	2	1.6	1	0.8	17.6	1.10	7	D	2	
Mississippi	4	3.2	1	0.8	2	1.6	1	0.8	1	0.8	24	1.50	9	D+	30	
Missouri	0	0	0	0	0	0	0	0	5	4	16	1.00	5	D	31	
Montana	0	0	1	0.8	2	1.6	0	0	0	0	4.8	0.30	3	F	50	
Nebraska	5	4	5	4	2	1.6	3	2.4	5	4	52.8	3.30	20	B	1	B
Nevada	0	0	1	0.8	2	1.6	4	3.2	1	0.8	20.8	1.30	8	D+	41	
New Hampshire	5	4	1	0.8	2	1.6	1	0.8	0	0	24	1.50	9	D+	31	
New Jersey	5	4	5	4	2	1.6	4	3.2	3	2.4	49.6	3.10	19	B	3	B
New Mexico	4	3.2	1	0.8	0	0	4	3.2	1	0.8	30.4	1.90	10	C-	23	
New York	5	4	3	2.4	0	0	1	0.8	0	0	24	1.50	9	D+	26	
Norh Dakota	0	0	5	4	0	0	2	1.6	1	0.8	17.6	1.10	8	D	39	
North Carolina	1	0.8	1	0.8	2	1.6	2	1.6	0	0	14.4	0.90	6	D-	43	
Ohio	1	0.8	1	0.8	0	0	4	3.2	0	0	17.6	1.10	6	D	42	
Oklahoma	0	0	0	0	0	0	4	3.2	2	1.6	19.2	1.20	6	D	25	
Oregon	5	4	3	2.4	2	1.6	4	3.2	0	0	36.8	2.30	14	C	38	
Pennsylvania	0	0	1	0.8	0	0	0	0	0	0	1.6	0.10	1	F	47	
Rhode Island	4	3.2	3	2.4	1	0.8	4	3.2	1	0.8	35.2	2.20	13	C	15	
South Carolina	4	3.2	1	0.8	0	0	3	2.4	3	2.4	33.6	2.10	11	C	17	
South Dakota	0	0	0	0	0	0	0	0	0	0	0	0.00	0	F	47	
Tennesse	0	0	1	0.8	1	0.8	2	1.6	0	0	9.6	0.60	4	F	45	
Texas	4	3.2	1	0.8	3	2.4	3	2.4	1	0.8	32	2.00	12	C	35	
Utah	4	3.2	3	2.4	2	1.6	3	2.4	5	4	46.4	2.90	17	B-	7	B-
Vermont	5	4	5	4	2	1.6	3	2.4	0	0	36.8	2.30	15		8	
Virginia	5	4	1	0.8	5	4	3	2.4	3	2.4	44.8	2.80	17	B-	6	B-
Washington	5	4	5	4	0	0	4	3.2	1	0.8	40	2.50	15		25	C+
West Virginia	5	4	1	0.8	2	1.6	4	3.2	2	1.6	40	2.50	14		17	C+
Wisconsin	1	0.8	5	4	0	0	5	4	1	0.8	30.4	1.90	12	C-	20	
Wyoming	0	0	1	0.8	0	0	0	0	1	0.8	4.8	0.30	2	F	44	

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If Then C-F	Statute Used for Ranking
F	Ala. Code 36-12-40 et seq.
F	Alaska Stat. 09.25.100 to .220
F	Ariz. Rev. Stat. Ann. 39-121 to 1-24
	Ark. Code Ann. 25-19-101 to -107
C-	Cal. Gov. Code 6250 to 6270
C-	Colo. Rev. Stat. 24-72-201 to -206
C	Conn. Gen. Stat. Ann. Ch. 14 1-200 to 1-241
D	Del. Code Ann. 29-100-1005
C-	D.C. Code Ann. 2-531 to 2-562
C-	Fla. Stat. Ann. 119.01 to .165; <i>Sunshine Manual</i>
C	Ga. Code Ann. 50-18-70 to 76
D+	Haw. Rev. Stat. Ann. 92F-11 to 19
C-	Idaho Code 9-338 to -347
C-	Ill. Comp. Stat. Ann. Ch. 5, 140/1 to /11
C	Ind. Code Ann. 5-14-3-1 to 10
C-	Iowa Code Ann. 22.1 to .14
D+	Kan. Stat. Ann. 45-215 to 225
	Ky. Rev. Stat. Ann. 61.870 to .884
	La. Rev. Stat. Ann. 44:31 to :37
D+	Me. Rev. Stat. Ann. 1-13 § 408 to 410
D+	Md. Code Ann., State & Govt, 10-611 to 628 and 10-1001
D+	Mass. Gen. Laws Ann. Ch. 66 1-15, 241
C	Mich. Comp. Laws Ann. 15-231 to 241
D	Minn. Stat. Ann. 13.03 to .08
D+	Miss. Code Ann. 25-61-1 to 17
D	Mo. Ann. Stat. 109.180 to .190
F	Mont. Code Ann. 2-6-101 to 111
	Neb. Rev. Stat. 84.712 to .732
D+	Nev. Rev. Stat. Ann. 239.005 to .330
D+	N.H. Rev. Stat. Ann. 91-A:1 to :8
	N.J. Rev. Stat. 47-1A-1
C-	14-2-1 N.M. Stat. Ann. 1978 et seq
D+	N.Y. Pub. Off. Law 84 to 90
D	N.D. Cent. Code 44-04-18 to -23
D-	N.C. Gen. Stat. 132-1 to 10
D	Ohio Rev. Code. Ann 149.43
D	Okla. Stat. Ann. Tit. 51, 24A, 1 to .18
C	Or. Rev. Stat. Ann. 192.001 to .990
F	Pa. Cons. Stat. Ann. Tit. 66.1 to .4
C	R.I. Gen. Laws 38-2-1 to -15
C	S.C. Code Ann. 30-4-10 to -110
F	S.D. Codified Laws Ann. 1-27-1 to -19
F	Tenn. Code Ann. 10-7-503 to -509
C	Tex. Gov. Code Ann. § 552.001 to .353
	Utah. Code. ann. 63-2-101 to -804
C	Vt. Stat. Ann. tit. 1, 315 to 320
	Va. Code Ann. 2.2-3700 to -3714
	Wash. Rev. Code Ann. 42.17.250 to .341
	W. Va. Code 29B-1-1 to -7
C-	Wis. Stat. Ann. 19.31 to .39
F	Wyo. Stat. Ann, 16-4-201 to -205

State/Credit	X/16		--	
Category	GPA	Total Points	Overall Grade	Rank
Nebraska	3.30	20	B	1
New Jersey	3.10	19	B	2
Utah	2.90	17	B-	3
Arkansas	2.80	19	B-	4
Virginia	2.80	17	B-	5
Louisiana	2.70	15	B-	6
Kentucky	2.50	16	C+	7
Washington	2.50	15	C+	8
West Virginia	2.50	14	C+	9
Vermont	2.30	15	C	10
Georgia	2.30	14	C	11
Oregon	2.30	14	C	11
Indiana	2.30	13	C	13
Michigan	2.30	13	C	13
Rhode Island	2.20	13	C	13
South Carolina	2.10	11	C	16
Conneticut	2.00	13	C	17
Texas	2.00	12	C	18
Florida	1.90	13	C-	19
Wisconsin	1.90	12	C-	20
California	1.90	11	C-	21
District of Columbia	1.90	11	C-	21
Iowa	1.90	10	C-	23
New Mexico	1.90	10	C-	23
Idaho	1.80	11	C-	25
Illinois	1.70	11	C-	26
Colorado	1.70	10	C-	27
Hawaii	1.50	11	D+	28
Maine	1.50	9	D+	29
Maryland	1.50	9	D+	29
Mississippi	1.50	9	D+	29
New Hampshire	1.50	9	D+	29
New York	1.50	9	D+	29
Kansas	1.50	8	D+	34
Massachusetts	1.30	9	D+	35
Nevada	1.30	8	D+	36
Oklahoma	1.20	6	D	37
Delaware	1.10	8	D	38
Norh Dakota	1.10	8	D	38
Minnesota	1.10	7	D	40
Ohio	1.10	6	D	41
Missouri	1.00	5	D	42
North Carolina	0.90	6	D-	43
Tennesse	0.60	4	F	44
Montana	0.30	3	F	45
Arizona	0.30	2	F	46
Wyoming	0.30	2	F	46
Alaska	0.10	1	F	48
Pennsylvania	0.10	1	F	48
Alabama	0.00	0	F	50
South Dakota	0.00	0	F	50

BGA/IRE SURVEY

The Better Government Association (“BGA”) is a government watchdog group located in Chicago, Illinois. The BGA is conducting this survey with IRE, Inc. to assess how effective freedom of information laws are around country. The BGA has sought out journalists to survey because journalists have the most experience with these laws and deal with them on a regular basis. In addition to filling out the survey, we ask that you also include what state you are working in, how long you have been a journalist and approximately how many requests you have made. We ask that only journalists that have made five or more requests fill out this survey. Please circle the response that best fits your opinion. Thanks for helping.

State: _____ Number of years as a journalist: _____

Approximate number of requests made for public documents: _____

1. I am generally satisfied with the FOI law in my state.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

2. It is important for me as a journalist to have open access to public records.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

3. In my state, FOIA requests receive quick responses.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

4. Legitimate FOIA requests are often denied.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

5. The appeals process for FOIA request denial is fair and impartial.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

6. Public officials abuse their discretion when denying FOI requests.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

7. I feel confident that my FOI requests will be honored.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

8. Important information goes unpublished because of the weak FOI law in my state.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

9. The cost of litigation is a deterrence to filing a lawsuit to enforce my state’s FOI law.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

10. Public officials are held accountable for refusing legitimate FOI requests.

1	2	3	4	5
Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree

When you have completed this survey, please fax it back to the BGA at (312) 427-8340.